IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1584 OF 2000

1. Devidas Jairam Somase
2. Manoj Devidas Somase .. Petitioners

Versus

1. Indian Oil Corporation Ltd.
2. Special Land Acquisition Officer, Nashik
3. State of Maharashtra
4. Arun Sahebrao Somase
5. Sahebrao Jairam Somase .. Respondents

Mr.K.S. Patil h/f Mr.P.N. Joshi for the petitioners.

Mr.P.K. Rele with Mr.Vinod Tayade for respondent No.1.

Mr.S.R. Nargolkar, A.G.P. for respondents Nos.2 and 3.

Mr.R.L. Majaonkar for respondents Nos.4 and 5.

W I T H

WRIT PETITION NO. 2190 OF 2004

1. Arun Sahebrao Somase
2. Sahebrao Jairam Somase .. Petitioners

Versus

1. Indian Oil Corporation Ltd.
2. Special Land Acquisition Officer, Nashik

3. State of Maharashtra

4. The Collector of Nashik, Dist. Nashik

5. The Tahsildar,
Taluka Nandgaon, Dist. Nashik

6. Manoj Devidas Somase

7. Devidas Jairam Somase .. Respondents

Mr.Vasant Shelke with Mr.Y.V. Divekar i/b Divekar & Co. for the petitioners.

Mr.K.S. Patil h/f Mr.P.N. Joshi for respondents Nos.6 and 7.

Mr.P.K. Rele with Mr.Vinod Tayade for respondent No.1.

Mr.S.R. Nargolkar, A.G.P. for respondents Nos.2 to 5.

CORAM : H.L. GOKHALE &
SMT.NISHITA MHATRE, JJ.

DATE : 29TH SEPTEMBER 2004

ORAL JUDGMENT : (Per Gokhale J.)

1. The 1st respondent to both these petitions is a Public Corporation dealing in petroleum products. It acquired certain lands in village Dhotane-Budruk Panda situated near Manmad in Taluka Nandgaon, District Nasik for the purposes of setting up LPG Bottling Plant. In all such projects, the agriculturists in the particular area are the sufferers and, therefore, it appears that

the Ministry of Industry, Bureau of Public Enterprises laid down certain guidelines to be followed by such Corporations. As far as these acquisitions are concerned, the relevant guidelines were recorded in a letter addressed on behalf of the 1st respondent Corporation to the District Collector, Nashik dated 15th December 1995. These guidelines were essentially for providing preference in employment to those whose lands were to be acquired.

2. Devidas and Sahebrao, both sons of Jairam Somase, are two such persons whose lands came to be acquired for this project. It is material to note that their land holding was common until this policy was declared and it is not disputed that they got their lands partitioned in the year 1996. Thus, the plot of land which came to Devidas bears No.27/3/B/4 whereas the one which remained with Sahebrao bears No.27/3/B/2.

3. On the basis of this policy, Devidas - the petitioner in the first petition is seeking a job for his son Manoj whereas the second petition is filed by Arun, the son of the above referred Sahebrao. Manoj was minor at the time when the aforesaid policy was declared and implemented. He is born on 4th September 1984. On

his behalf, the above referred Writ Petition No.1584 of 2000 is filed contending that the family of Devidas Somase has not been given any employment. The petition came up for consideration before another Division Bench on 31st July 2000 which admitted it and directed the 1st respondent Corporation to keep one post vacant. The second petition was filed by Arun since he was not selected by the 1st respondent Corporation for employment. Both these petitions are being heard together. An affidavit in reply has been filed in both these petitions.

4. As stated above, the submission of the petitioners is based on the policy contained in the letter dated 15th December 1995. This letter records that the policy of employment as a basis of compensation to the land losers was being recorded in that letter and the same was being issued as per the instructions of Ministry of Industry. Clause (a) of this policy directs the District Administration to identify and make a list of land losers along with the particulars relating to relationship, age and qualification. Only those members, who qualify to be listed and who are direct descendants, were eligible for entitlement. Clause (b) records that one member from each land loser should be

identified who in view of the educational background and age, and with training inputs like ITI could be considered for employment. Clause (c) indicates that it was to be a one time process inasmuch as it declares that once the process of identification has been completed and the list of persons finalised, no further addition was to be made in the list for any reason whatsoever. The land losers were required to make affidavit about the identification of the candidates and their subsequent possible employment depending upon the available vacancies. This clause further states that the candidates were to be considered for Grade-I vacancy, that is at the lowest level. Clause (d) provides that the persons concerned were to fulfill the requirements of the post relating to qualification, age etc. Clause (e) gave the procedure, namely that the names were to be forwarded from Employment Exchange and the sponsors of the land losers were to be given preference when all other things found equal.

5. In the reply filed in the second petition, a detailed explanation has been given as to what steps were taken by the respondents. As far as the 1st petitioner Devidas is concerned, it has been stated in the reply filed in his petition that his son was a minor

at the relevant time. As far as the second petition and the claim therein is concerned, it is stated that firstly some of the members of the joint family did not give the no objection as required to the claim of Arun, son of Sahebrao. In May 2001, five vacancies of the Junior Operators were identified. Six candidates whose names were forwarded by the Employment Exchange were considered. Amongst them was Arun, son of Sahebrao. Depending upon the interview performance of the candidates, the officers of the 1st respondent Corporation gave marks and as per the list annexed to this affidavit, one Chandrakant Somase got 78 marks. Thereafter comes one Sanjay Pawar who got 76 marks. Then one Kum. Krishna Somase who got 75 marks. The fourth person is one Vinod More who got 73 marks and the fifth was one Dilip Somase who got 71 marks. Arun, the son of Sahebrao, got the lowest marks i.e. 54. However, in the chart given by the 1st respondent Corporation, the names of these six candidates appear in the following order:-

(1) Chandrakant Somase

(2) Dilip Somase

(3) Sanjay Pawar

(4) Vinod More

(5) Arun Somase

(6) Krishna Somase

In view of the interim order passed by the Division Bench, one seat had to be reserved for Manoj, son of Devidas, and since only five appointments were to be made, Vinod More was not given the appointment and that post was kept vacant. In any event, it is stated in reply that Arun, though not having a clear consent letter from his relatives, was still considered and since his marks were the lowest, he was not eligible. It is submitted by Mr.Rele, learned counsel for respondent No.1 Corporation, that this was a one time exercise and that exercise having been done in accordance with the policy, there was no reason for this Court to interfere. Mr.Rele also points out that instead of Vinod More, the fourth seat has gone to Dilip Somase who had 2 marks less than him, probably since he belongs to a reserved category (OBC) as shown from the chart.

6. We have noted the submissions of the counsel for the petitioners as well as Mr.Rele for respondent Nos.1 Corporation. As seen from the policy document, it is an enabling document and the whole idea is to undertake a

one time exercise to identify one member from each of the land losers' family and to give them one job per family in the lowest grade. Their names were to be forwarded by the Employment Exchange. They had to have the necessary qualifications. In the present case, as far as Manoj is concerned, at the relevant time he was a minor and he could not be eligible. As far as Arun is concerned, in fact there was no NOC from some of the branches of the joint family. From that joint family, one person was eligible and inspite of the fact that they had entered into a partition subsequent to the policy and inspite of the fact that no objection was not forwarded by some of the branches of this family, still Arun was considered and in an interview held by 5 officers, he got the lowest marks. The contents of the affidavit in reply are not controverted and we have no reason to dispute the marking made by the officers when 5 of them have applied their mind and given the ranking to the persons who are all similarly situated and affected in the acquisition of the lands.

7. In the circumstances, both the petitioners were not eligible to the employment as per the policy. We therefore do not find any error on the part of the respondent No.1 Corporation in the decision that they

have taken. The petitions are dismissed. Interim order in Writ Petition No.1584 of 2000 stands vacated. The 1st respondent Corporation will proceed to fill the vacancy which has been kept vacant under the orders of the court by allotting it to Vinod More who was otherwise found to be eligible person.

8. Mr.Shelke applies for stay of this order. Request is rejected.

(H.L. GOKHALE, J.)

(SMT. NISHITA MHATRE J.)